

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

CHIQUITA FRESH, N.A. a/k/a
CHIQUITA FRUPAC,
BAMA TOMATO CO., INC.,
SANZONE BROKERAGE, INC.,

Plaintiffs

ALSUMPRODUCE, INC.; HOLLAR AND
GREENE PRODUCE COMPANY, INC.;
REGIONAL SOURCE PRODUCE, INC.;
DOVEX MARKETING CO., LLC;
MONTEREY MUSHROOMS, INC.;
SUE EVERETT d/b/a EVERETT FARM;
NATURE QUALITY VINE RIPE TOMATOES,
HENRY HALL and JAMES L. SUTTLES,
Proprietors; OCEAN VALLEY FARMS, Kevin
Hubbard, Proprietor; HINTON FARMS PRODUCE,
INC.; and BAMA TOMATO CO., INC.,

Intervenor Plaintiffs

v.

SPECIALTY PRODUCE COMPANY, INC.
and ROGER D. DOTSON,

Defendants

SPECIALTY PRODUCE COMPANY, INC.;
ROGER D. DOTSON; ROGER DOTSON, SR.;
ROGER D. DOTSON, JR.; PAUL THORNTON,

Intervenor Defendants

SANZONE BROKERAGE, INC.,

Claimant

Consolidated

Nos. 1:02-cv-269 (*Lead Case*)

1:02-cv-272

1:02-cv-276

Judge Edgar

O R D E R

Plaintiff Bama Tomato Company, Inc. moves the Court to award attorney's fees and costs. [Court Doc. No. 90]. Plaintiffs Nature Quality Vine Ripe Tomatoes, Henry Hall, and James L. Suttles have filed a limited objection. [Court Doc. No. 92]. This matter was referred to United States Magistrate Judge Susan K. Lee for her report and recommendation pursuant to 28 U.S.C.

§ 636(b)(1)(B). Magistrate Judge Lee has filed a report and recommendation. [Court Doc. No. 95].
The parties have not filed any objections.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the Magistrate Judge's findings of fact, conclusions of law, and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). The motion by plaintiff Bama Tomato Company, Inc. to award attorney's fees and costs [Court Doc. No. 90] is **GRANTED**. The Court hereby **AWARDS** to plaintiff Bama Tomato Company, Inc. attorney's fees in the amount of **\$17,822.00**, plus costs and expenses in the amount of **\$825.94**, for a **TOTAL AWARD** of **\$18,647.94** from the PACA Trust Account.

On or before **October 21, 2005**, the parties shall file a status report explaining the precise status of this case including what remains to be done to achieve a final distribution of all remaining funds in the PACA Trust Account and to effect the entry of a final judgment. In the status report, the parties shall advise the Court whether there are any outstanding PACA claims against Roger Dotson, Sr. and Roger D. Dotson, Jr. in their individual capacities, and whether it is necessary for the Court to hold a scheduling conference under Fed. R. Civ. P. 16 to schedule a trial. If the parties are able to now reach a comprehensive agreement and compromise on all outstanding issues and PACA claims, the parties may submit a final agreed judgment to the Court.

SO ORDERED.

ENTER this *22nd day of September, 2005*.

/s/ R. Allan Edgar
R. ALLAN EDGAR
CHIEF UNITED STATES DISTRICT JUDGE